

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In the matter of

WBAI, as an Affiliate of the Pacifica Network, by
CAROLYN McGUIRE, Chairwoman of the WBAI
Local Board; HARVEY EPSTEIN, as a Contributor
Member of the Pacifica Foundation and WBAI;
ARTHUR SCHWARTZ, as a Producer Member of the
Pacifica Foundation and WBAI; MIMI ROSENBERG,
as a Producer Member of the Pacifica Foundation and
WBAI; JAMES SAGURTON, Member of the Board of
Directors of the Pacifica Foundation; and ALEX
STEINBERG, Member of the Board of Directors of the
Pacifica Foundation,

Petitioners-Opponents,

For an Order Pursuant to Article 78 of the Civil Practice
Law and Rules and Section 1315 of the Not for Profit
Corporation Law to compel Respondent to restore the
status quo,

-against-

PACIFICA FOUNDATION,

Respondent-Movant.

Case No. 19-cv-09387

~~PROPOSED~~ ORDER TO
SHOW CAUSE FOR A
TEMPORARY
RESTRAINING ORDER AND
A PRELIMINARY
INJUNCTION

Upon the accompanying declaration of Ford Greene, executed on October 14, 2019, with
exhibits attached thereto, the declaration of John Vernile, executed on October 14, 2019, with
exhibits attached thereto, the declaration of Kara M. Steger, executed on October 14, 2019, with
exhibits attached thereto, and the proposed form of order granting the relief sought herein (attached
hereto as Exhibit 1), it is hereby:

ORDERED that Petitioners-Opponents show cause before this Court, Room 1305
United States Courthouse, ~~500 Pearl Street~~, in the City, County and State of New York, on the

40 Centre
Street

21st day of October, 2019 at 3 p.m., or as soon thereafter as counsel may be heard, why, pursuant to Fed. R. Civ. P. Rule 65, a preliminary injunction should not be entered:

- a. Enjoining Petitioners from implementing any motion from the October 13, 2019 meeting of the Pacifica National Board until such time as this Court has issued a ruling determining the validity of the October 13, 2019 motions;
- b. Enjoining Petitioners from disregarding or causing others to disregard the properly passed motions of the Pacifica National Board on October 12, 2019 until such time as this Court has issued a ruling determining the validity of the October 13, 2019 motions;
- c. Enjoining Petitioners from holding or causing to be held any regular or official meeting of the Pacifica National Board without following the notice procedures set forth in Article 6 of Pacifica's Bylaws as well as all other procedures in Pacifica's Bylaws;
- d. Enjoining Petitioner-Attorney for Petitioners Arthur Schwartz from engaging in direct or indirect contact with Pacifica employees, including but not limited to the Pacifica Human Resources Department and Pacifica National Board members, regarding the subject of this litigation without prior consent from counsel for Pacifica; and
- e. Directing any further relief as the court deems just and necessary.

ORDERED, that Petitioners' papers in response to this Order shall be filed by October 16, at 5 p.m.
2019, any reply papers shall be filed by Respondent by October 18, 2019, and a hearing on at 5 p.m.

Respondent's application for a preliminary injunction shall be held on October 21, 2019, at 3 p.m.

Respondent is to save these papers on Petitioners' counsel to thumb and immediately
ORDERED, that pending the Court's resolution of Respondent's application for a Hear the
preliminary injunction, Petitioners shall be temporarily restrained and barred from taking any File an
actions to implement any motion from the October 13, 2019 meeting of the Pacifica National affidavit
Board; at
SWD
or EC

ORDERED that pending the Court's resolution of Respondent's application for a preliminary injunction, Petitioners shall be temporarily restrained and barred from disregarding or

causing others to disregard the properly passed motions of the Pacifica National Board on October 12, 2019 until such time as this Court has issued a ruling determining the validity of the October 13, 2019 motions of the improperly convened faction of the Pacifica National Board;

ORDERED, that pending the Court's resolution of Respondent's application for a preliminary injunction, Petitioners shall be temporarily restrained and barred from holding or causing to be held any regular or official meeting of the Pacifica National Board without following the notice procedures set forth in Article 6 of Pacifica's Bylaws and all other procedures set forth in Pacifica's Bylaws;

ORDERED, that pending the pending the Court's resolution of Respondent's application for a preliminary injunction, Petitioner-Attorney for Petitioners Arthur Schwartz shall be temporarily restrained and enjoined from engaging in any direct or indirect contact with Pacifica employees including but not limited to the Pacifica Human Resources Department and Pacifica National Board members, regarding the subject of this litigation, without prior consent from counsel for Pacifica in this litigation;

ORDERED, that the Court's electronic filing of this Order by ECF in the above-captioned action shall be deemed good and sufficient service and notice thereof. Security in the amount ~~\$1000~~ will be posted by October 18, 2019 at 5 p.m.

Dated: New York, New York
October 15, 2019

ENTERED,

Paul A. Engelmayer
U.S.D.J.

mg